

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RUDOLPH ROYBAL

Petitioner,

vs.

RON DAVIS, Acting Warden of San
Quentin State Prison,

Respondent.

CASE NO. 99cv2152 JM (KSC)

DEATH PENALTY CASE

FINAL ORDER:

**(1) GRANTING PETITION
FOR WRIT OF HABEAS
CORPUS;**

**(2) ISSUING CERTIFICATE
OF APPEALABILITY; AND**

**(3) ORDERING STAY OF
EXECUTION PENDING
APPEAL**

For the reasons discussed in the court's December 2, 2015 Order (see ECF No. 284), the Petition for Writ of Habeas Corpus is **GRANTED** as to Claims 9, 12 and 39 in the First Amended Petition and **DENIED** as to all other claims. The Court **ORDERS** the State of California to either grant Petitioner a new penalty phase trial or to vacate the sentence of death and re-sentence Petitioner to life in prison without parole, within 120 days of the date of this Order.

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1 The Court **ISSUES** a Certificate of Appealability [“COA”] on Claims 4-9, 12,
2 and 39 and **DENIES** a COA on Claims 1-3, 10-11, and 13-38. See 28 U.S.C.
3 § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000); (see also ECF No.284 at pp.
4 220-21.)

5 Pursuant to Local Rule HC.3(g)(6), the Court **ORDERS** a stay of execution
6 “which will continue in effect until the court of appeals acts upon the appeal or the
7 order of stay.”

8 The Clerk is **ORDERED** to enter Judgment for Petitioner and to close the file.

9 **IT IS SO ORDERED.**

10 DATED: December 2, 2015



Hon. Jeffrey T. Miller
United States District Judge

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